

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 376
95TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 2, 2009, with recommendation that the Senate Committee Substitute do pass.

1744S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to energy efficiency investments by electric corporations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 393, RSMo, is amended by adding thereto one new section, to be known as section 393.1124, to read as follows:

393.1124. 1. This section shall be known as the "Missouri Energy Efficiency Investment Act".

2. As used in this section, the following terms shall mean:

(1) "Commission", the Missouri public service commission;

(2) "Demand response", measures that decrease peak demand or shift demand to off-peak periods;

(3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, demand response, and interruptible load;

(4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a given end use;

(5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(6) "Total resource cost test", a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are

21 implemented due to the program, as defined by the commission in
22 rules.

23 3. It shall be the policy of the state to value demand-side
24 investments equal to traditional investments in supply and delivery
25 infrastructure and allow recovery of all reasonable and prudent costs
26 of delivering cost-effective demand-side programs. In support of this
27 policy, the commission shall:

28 (1) Provide timely cost recovery for utilities;

29 (2) Ensure that utility financial incentives are aligned with
30 helping customers use energy more efficiently and in a manner that
31 sustains or enhances utility customers' incentives to use energy more
32 efficiently; and

33 (3) Provide timely earnings opportunities associated with cost-
34 effective measurable and verifiable efficiency savings.

35 4. The commission shall permit electric corporations to
36 implement commission-approved demand-side programs proposed
37 pursuant to this section with a goal of achieving all cost-effective
38 demand-side savings. Recovery for such programs shall not be
39 permitted unless the programs are approved by the commission, result
40 in energy or demand savings and are beneficial to all customers in the
41 customer class in which the programs are proposed, regardless of
42 whether the programs are utilized by all customers. The commission
43 shall consider the total resource cost test a preferred cost-effectiveness
44 test. Programs targeted to low-income customers or general education
45 campaigns do not need to meet a cost-effectiveness test, so long as the
46 commission determines that the program or campaign is in the public
47 interest. Nothing herein shall preclude the approval of demand-side
48 programs that do not meet the test if the costs of the program above the
49 level determined to be cost-effective are funded by the customers
50 participating in the program or through tax or other governmental
51 credits or incentives specifically designed for that purpose.

52 5. To comply with this section the commission may develop cost
53 recovery mechanisms to further encourage investments in demand-side
54 programs including, in combination and without limitation:
55 capitalization of investments in and expenditures for demand-side
56 programs, rate design modifications, accelerated depreciation on
57 demand-side investments, allowing the utility to retain a portion of the

58 net benefits of a demand-side program for its shareholders, and a cost
59 adjustment clause for collection of costs associated with demand-side
60 programs. In setting rates the commission shall fairly apportion the
61 costs and benefits of demand-side programs to each customer class
62 except as provided for in subsection 6 of this section. Prior to
63 approving a rate design modification associated with demand-side cost
64 recovery, the commission shall conclude a docket studying the effects
65 thereof and promulgate an appropriate rule.

66 6. The commission may reduce or exempt allocation of demand-
67 side expenditures to low income classes, as defined in an appropriate
68 rate proceeding, as a subclass of residential service.

69 7. Provided that the customer has notified the electric
70 corporation that the customer elects not to participate in demand-side
71 measures offered by an electrical corporation, none of the costs of
72 demand-side measures of an electric corporation offered under this
73 section or by any other authority, and no other charges implemented
74 in accordance with this section, shall be assigned to any account of any
75 customer, including its affiliates and subsidiaries, meeting one or more
76 of the following criteria:

77 (1) The customer has one or more accounts within the service
78 territory of the electrical corporation that has a demand of five
79 thousand kilowatts or more;

80 (2) The customer operates an interstate pipeline pumping
81 station, regardless of size; or

82 (3) The customer has accounts within the service territory of the
83 electrical corporation that have, in aggregate, a demand of two
84 thousand five hundred kilowatts or more, and the customer has a
85 comprehensive demand-side or energy efficiency program and can
86 demonstrate an achievement of savings at least equal to those expected
87 from utility-provided programs.

88 Customers electing not to participate in an electric corporation's
89 demand-side programs under this subsection shall still be allowed to
90 participate in interruptible or curtailable rate schedules or tariffs
91 offered by the electric corporation.

92 8. The commission shall provide oversight and may adopt rules
93 and procedures and approve corporation-specific settlements and tariff
94 provisions, independent evaluation of demand-side programs, as

95 necessary, to ensure that electric corporations can achieve the goals of
96 this section. Any rule or portion of a rule, as that term is defined in
97 section 536.010, RSMo, that is created under the authority delegated in
98 this section shall become effective only if it complies with and is
99 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
100 section 536.028, RSMo. This section and chapter 536, RSMo, are
101 nonseverable and if any of the powers vested with the general assembly
102 pursuant to chapter 536, RSMo, to review, to delay the effective date,
103 or to disapprove and annul a rule are subsequently held
104 unconstitutional, then the grant of rulemaking authority and any rule
105 proposed or adopted after August 28, 2009, shall be invalid and void.

106 9. Each electric corporation shall submit an annual report to the
107 commission describing the demand-side programs implemented by the
108 utility in the previous year. The report shall document program
109 expenditures, including incentive payments, peak demand and energy
110 savings impacts and the techniques used to estimate those impacts,
111 avoided costs and the techniques used to estimate those costs, the
112 estimated cost-effectiveness of the demand-side programs, and the net
113 economic benefits of the demand-side programs.

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